



County of San Bernardino

**F A S**

**STANDARD CONTRACT**

**FOR COUNTY USE ONLY**

<input checked="" type="checkbox"/> New <input type="checkbox"/> Change <input type="checkbox"/> Cancel	Vendor Code <b>ECS----515</b>	<b>SC</b>	Dept. <b>FMD</b>	<b>A</b>	Contract Number	
County Department <b>Facilities Management</b>			Dept. <b>UTL</b>	Orgn. <b>CON</b>	Contractor's License No. <b>808414C-36</b>	
County Department Contract Representative <b>Randy Frazier</b>			Telephone <b>387-2243</b>		Total Contract Amount <b>\$804,900</b>	
Contract Type <input type="checkbox"/> Revenue <input checked="" type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:						
If not encumbered or revenue contract type, provide reason:						
Commodity Code		Contract Start Date <b>July 1, 2004</b>	Contract End Date <b>June 30, 2007</b>	Original Amount <b>\$804,900</b>	Amendment Amount	
Fund <b>AAA</b>	Dept. <b>UTL</b>	Organization <b>CON</b>	Appr. <b>200</b>	Obj/Rev Source <b>2180</b>	GRC/PROJ/JOB No.	Amount <b>\$804,900</b>
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
Project Name <b>Water Management and Operation Services</b>			Estimated Payment Total by Fiscal Year			
			FY	Amount	I/D	
			<b>2005</b>	<b>\$268,300</b>	<b>I</b>	
			<b>2006</b>	<b>\$268,300</b>	<b>I</b>	
			<b>2007</b>	<b>\$268,300</b>	<b>I</b>	

THIS CONTRACT is entered into in the State of California by and between the County of San Bernardino, hereinafter called the County, and

Name

ECS Company Inc.

hereinafter called Vendor

Address

858 West 9<sup>th</sup> Street

Upland , CA 91786

Telephone

(909) 931-4877

Federal ID No. or Social Security No.

02-0531325

**IT IS HEREBY AGREED AS FOLLOWS:**

*(Use space below and additional bond sheets. Set forth service to be rendered, amount to be paid, manner of payment, time for performance or completion, determination of satisfactory performance and cause for termination, other terms and conditions, and attach plans, specifications, and addenda, if any.)*

I.

The complete Contract includes all of the following Contract Documents:

- A. "Request For Proposal (RFP) – Glen Helen and Juvenile Hall/Behavioral Health Water System Management and Operations Services Dated May 2004;
- B. Scope of Work (Section V. of the RFP)
- C. Certified copy of the record of action of the Board of Supervisors on the date this Contract is approved.

And they are included in their entirety as a part of this Contract by reference thereto.

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II.

### **Services to be Performed**

ECS Company, Inc. (Vendor) shall perform for the County, under the terms and conditions of this Contract, all required services listed in Scope of Work (Section V of the RFP) relative to Water System Management and Operations Services of the RFP.

III.

### **Vendor's Fee**

As total consideration for performing all the duties of this Contract, and for all costs, expenses and obligations incurred by Vendor, the County agrees to pay Vendor, a fixed fee of Two Hundred Forty Three Thousand Three Hundred Dollars (\$243,300) per year. In addition there will be an allowance of Twenty Five Thousand Dollars (\$25,000.00) per year for unanticipated emergency call out for manual system operation, power and equipment failures and water transmission main line leak repairs. Vendor will be compensated from this allowance only for work actually performed that is unforeseen and is not included in the original Scope of Work. All needed repairs are to be approved in advance by the Facilities Management Department. These repairs will be charged at \$70.00 per hour during regular hours 6:00AM through 6:00PM – Monday through Friday, \$105.00 per hour 6:00PM through 12:00AM and Saturdays, and \$140.00 per hour holidays, Sundays and after hours between midnight and 6:00 AM, plus the necessary parts.

The County shall compensate the Vendor based upon Vendor's invoices submitted not more frequently than monthly, as approved by the County.

IV.

### **Term**

The term of this Contract shall be for Three (3) years with two (2) one (1) year options, commencing on July 1, 2004 and expiring on the June 30, 2007.

V.

### **Termination For Convenience**

The COUNTY for its convenience may terminate this agreement whole or in part upon thirty (30) calendar days written notice. If such termination is effected, an equitable adjustment in the price provided for in this Agreement shall be made. Such adjustment shall provide for payment to the Vendor for services rendered and expenses incurred prior to the effective date of termination. Upon receipt of termination notice Vendor shall promptly discontinue services unless the notice directs otherwise. Vendor shall deliver promptly to County and transfer title (if necessary) all completed work, and work in

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progress, including drafts, documents, plans, forms, data, products, graphics, computer programs and reports.

The Director of the Facilities Management Department has the authority to terminate this Contract.

VI.

**Indemnification and Insurance Requirements**

Indemnification The Vendor agrees to indemnify, defend and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising from Vendor’s acts, errors or omissions and for any costs or expenses incurred by the County on account of any claim therefore, except where such indemnification is prohibited by law.

**Insurance Coverage**

Without in any way affecting the indemnity herein provided and in addition thereto, the Vendor shall secure and maintain throughout the Agreement the following types of insurance with limits as shown:

- 1. Workers' Compensation - A program of Workers' Compensation insurance or a State-approved Self-Insurance Program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits, covering all persons providing services on behalf of the Vendor and all risks to such persons under this Agreement.  
If Vendor has no employees, it may certify or warrant to County that it does not currently have any employees or individuals who are defined as “employees” under the Labor Code and the requirement for Workers’ Compensation coverage will be waived by the County’s Risk Manager.  
With respect to Vendors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers’ Compensation insurance. If the County’s Risk Manager determines that there is no reasonably priced coverage for volunteers, evidence of participation in a volunteer insurance program may be substituted.
- 2. Comprehensive General and Automobile Liability Insurance - This coverage to include contractual coverage and automobile liability coverage for owned, hired and non-owned vehicles. The policy shall have combined single limits for bodily injury and property damage of not less than one million dollars (\$1,000,000).
- 3. Professional Liability – Professional liability insurance with limits of at least \$1,000,000 per claim or occurrence.

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4. Additional Named Insured - All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder.
6. Waiver of Subrogation Rights - The Vendor shall require the carriers of the above-required coverage's to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, vendors, and subcontractor.
7. Policies Primary and Non-Contributory - All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.
8. Proof of Coverage - The Vendor shall immediately furnish certificates of insurance to the County Department administering the Agreement evidencing the insurance coverage, including the endorsements above required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department. Vendor shall maintain such insurance from the time Vendor commences performance of services hereunder until the completion of such services. Within sixty- (60) days of the commencement of this Agreement, the Vendor shall furnish certified copies of the policies and all endorsements.
9. Insurance Review - The above insurance requirements are subject to periodic review by the County. The County's Risk Manager is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the Risk Manager determines that any of the above insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Risk Manager determines that heretofore, unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Risk Manager is authorized but not required, to change the above insurance requirements, to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk. Any such reduction or waiver for the entire term of the Agreement and any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. Contractor agrees to execute any such amendment within thirty- (30) days of receipt.

#### VII.

The Vendor hereby agrees to comply with the State Labor Code and acknowledges that, in accordance with Section 3700 of the State Labor Code, he will be required to secure the payment of compensation to his employees.

#### VIII.

The Vendor acknowledges that he will be held responsible for compliance with the provisions of Sections 1777.5 and 1776 of the State Labor Code if applicable.

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IX.

Vendor agrees to comply with the provisions of Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, Title VII of the Civil Rights Act of 1964, the California Fair Employment Practice Act, and other applicable Federal, State and County laws, regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

X.

### **Delegation and Assignment**

Vendor shall not delegate its duties or assign its rights hereunder, or both, either in whole or in part, without prior written consent of the County.

XI.

### **Alteration of Terms/Amendments**

Vendor agrees any alterations, variations, modifications, or waivers of the provisions of this Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the required persons.

XII.

### **Governing Law**

This Contract shall be construed and enforced in accordance with the laws of the State of California. Any reference herein applicable to state law shall mean only the laws of the State of California.

XIII.

### **Independent Contractor**

This Contract is by and among the County and Vendor and is not intended, and shall not be construed, to create a relationship of agent, servant, employee, partnership, joint venture, or association as among County and Vendor. Vendor is an independent contractor, except as otherwise provided in this Contract. Persons or agencies not signatories to this Contract shall not have a right to action hereunder for any cause whatsoever.

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XIV.

**Conflict of Interest**

Vendor shall make all reasonable efforts to ensure that no County officer or employee, whose position in the County enables him/her to influence any award of this Contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of this Contract or shall have any relationship to the Vendor or officer or employee of the Vendor.

XV.

**Jury Trial Waiver**

Vendor and County hereby waive their respective right by jury for any cause of action, claim, counterclaim, or cross-complaint in any action, proceeding, and/or hearing brought by either Vendor against County or County against Vendor on any matter arising out of, or in any way connected with, this Contract, the relationship of Vendor and County, or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency, or otherwise, now or hereafter in effect.

XVI.

**Attorneys' Fees and Costs**

If any legal action is instituted to enforce or declare any party's rights hereunder, each party shall bear its own costs and attorneys' fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorneys' fees directly arising from a third-party legal action against a party hereto and payable under Paragraph VI, INDEMNIFICATION.

XVII.

**Venue**

The venue for any action or claim brought by any party to this Contract will be the Central District of San Bernardino County. Each party hereby waives any law or rule of the court that would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party, the parties hereto agree to use their best efforts to obtain a change of venue to the Central District of San Bernardino County.

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XVIII.

**Former County Officials**

Vendor agrees to provide or has already provided information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent Contractor. The information provided includes a list of former county administrative officials who terminated county employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of contractor. For purposes of this provision, "county administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Administrative Officer or member of such officer's staff, county department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

XIX.

**Inaccuracies or Misrepresentations**

If during the course of the administration of this agreement, the County determines that the Vendor has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, this Contract may be immediately terminated. If this Contract is terminated according to this provision, the County is entitled to pursue any available legal remedies.

XX.

**Improper Consideration**

Vendor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this agreement.

The County, by written notice, may immediately terminate any agreement if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once an agreement has been awarded. Vendor shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Vendor. The report shall be made to the supervisor or manager charged with supervision of the employee or to the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

The Contract is delivered by ECS Company, Inc. to County for acceptance by its Board of Supervisors at San Bernardino, California, and is deemed to have been entered into at San Bernardino.

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XXI.

**NOTICE**

All notices given pursuant to this Agreement shall be in writing to the addresses below and either (1) personally delivered, (2) sent by United States mail, registered or certified, postage prepaid, return receipt requested, or (3) sent by a nationally recognized overnight delivery service, freight prepaid, return receipt requested, and shall be deemed to have been given upon receipt if delivered personally, or upon the date of delivery (or first refusal to accept delivery) as evidenced by the return receipt if sent pursuant to above subsections (2) or (3) above:

**COUNTY OF SAN BERNARDINO**

Facilities Management Attention: Randy Frazier  
200 South Lena Road  
San Bernardino, CA 92415

**ECS Company, Inc.**

858 West 9th Street  
Upland, CA 91786  
Attention: Sonny Gowan

COUNTY OF SAN BERNARDINO

►  
Dennis Hansberger, Chairman, Board of Supervisors

Dated: \_\_\_\_\_

SIGNED AND CERTIFIED THAT A COPY OF THIS  
DOCUMENT HAS BEEN DELIVERED TO THE  
CHAIRMAN OF THE BOARD

Clerk of the Board of Supervisors  
of the County of San Bernardino.

By \_\_\_\_\_  
Deputy

\_\_\_\_\_  
(Print or type name of corporation, company, contractor, etc.)

By ► \_\_\_\_\_  
(Authorized signature - sign in blue ink)

Name \_\_\_\_\_  
(Print or type name of person signing contract)

Title \_\_\_\_\_  
(Print or Type)

Dated: \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

Approved as to Legal Form

►  
County Counsel

Date \_\_\_\_\_

Reviewed by Contract Compliance

►

Date \_\_\_\_\_

Presented to BOS for Signature

►  
Department Head

Date \_\_\_\_\_

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